

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-037-C - ORDER NO. 96-362 ✓
MAY 22, 1996

IN RE: Application of Athena International, LLC) ORDER
for a Certificate of Public Convenience) APPROVING
and Necessity to Provide Intrastate Resold) CERTIFICATE
Telecommunications Services within the)
State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Athena International, LLC ("Athena" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of intrastate interexchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1995) and the Regulations of the Public Service Commission of South Carolina.

In its original Application, Athena requested for its business service offerings the relaxed regulatory treatment granted to AT&T in Docket No. 95-661-C (Orders No. 95-1734 and 96-55). However, upon agreement with the Consumer Advocate for the State of South Carolina at the time of the hearing, Athena withdrew its request and reserved the right to seek relaxed regulatory treatment in a future proceeding.

The Commission's Executive Director instructed Athena to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Athena's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Athena complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the Consumer Advocate of South Carolina (the "Consumer Advocate").

A hearing was commenced on May 7, 1996, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. Athena was represented by John F. Beach, Esquire. Elliott Elam, Esq., appeared on behalf of the Consumer Advocate. Catherine D. Taylor, Staff Counsel, represented the Commission Staff.

Jody Heap, Manager of Customer Service, appeared and offered testimony in support of Athena's Application. Mr. Heap stated that Athena is a Louisiana corporation which is registered to do business in South Carolina as a foreign corporation. According to Mr. Heap, Athena proposes to offer long distance services using resold transmission services of carriers certificated to carry traffic in South Carolina. Mr. Heap explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a reseller. He further explained the Company's services, operations and marketing procedures.

Mr. Heap also offered that Athena possesses the technical, financial and managerial abilities to provide its services in South Carolina. The record reveals that the Company will make certain changes to its proposed tariff to comply with Commission guidelines and prior Orders. Mr. Heap agreed to provide Athena's most recent financial statements as a hearing exhibit.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Athena is incorporated under the laws of the State of Louisiana and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Athena operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Athena has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Athena to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications

Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Athena for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Athena shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Athena shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1995).

4. Athena shall file its revised maximum tariff and an accompanying price list within thirty (30) days of the date of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Athena is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Athena shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Athena changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Athena shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. Athena shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. With regard to Athena's debit card, the Commission requires that the Company, as a condition of receiving a

Certificate, post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000. A Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

11. If the Company sells its debit cards to retail establishments for resale of the debit card, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, then Athena will withdraw its cards from that retail outlet. This Commission strongly suggests that Athena enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE